

Quarterly Report
OF THE
ATTORNEY GENERAL
OF
ALABAMA



FOR THE PERIOD
FROM JULY 1, 1979
THROUGH SEPTEMBER 30, 1979

CHARLES A. GRADDICK, Attorney General

VOLUME 176

SKINNER PRINTING COMPANY
INDUSTRIAL TERMINAL
MONTGOMERY, ALABAMA

CHARLES A. GRADDICK

Attorney General

LEE HALE

Deputy Attorney General

DON BEKURS
Executive Assistant

WALTER S. TURNER
Chief Assistant Attorney General

JAMES R. SOLOMON, JR.
Chief, Opinions Division

ASSISTANT ATTORNEYS GENERAL

Tom Allison	Beth Farmer	Joe Marston
Edward Askew	Kathryn Farnell	Bill McKnight
Milton Belcher	Dru Flowers	Tony McLain
William J. Benton	Ronald C. Forehand	Tom Parker
Mark Brandon	John Gibbs	Lary Raby
Linda Breland	Sally Greenhaw	Winfield Sinclair
Jean Brown	Charles Guyton	Carol Smith
Elizabeth E. Campbell	Rosa Hamlett	William T. Stephens
Joe Carlton	Jim Hampton	Sarah Spratling
Ed Carnes	Malcolm C. Humphries	Michael Sundock
Wendall Cauley	Willis Isaac	Bernard Sykes
Sam Clenney	Paul Johnson	Bill Turner
Benjamin Cohen	Virginia A. Johnston	Don Valeska
Larry Craven	L. Gilbert Kendrick	Pete Yates
Jack Curtis	Lynda Knight	John Yung
Philip Davis	Ed Lasseter	Tommy Zieman
Jim DeBardelaben	Jane LeCroy	
Young Dempsey	Tommy Leverette	
Bill Espy	Lawson Little	

OPINIONS CLERK
Dianne Steward

ASSISTANT ATTORNEYS GENERAL ASSIGNED TO OTHER DEPARTMENTS

AGRICULTURE

George O. Miller

AIR POLLUTION CONTROL

Darvin Morris

BOARD OF MEDICAL

EXAMINERS

Jack Mooresmith

CONSERVATION

Robert A. Macrory

William G. O'Rear

CONSUMER PROTECTION

Joe Dawkins

Ellis Hanan

Libba Petree

EXAMINERS OF PUBLIC

ACCOUNTS

Don E. Lawley

Pat Robinson

FINANCE DEPARTMENT

Jerry Weidler

HEALTH DEPARTMENT

James T. Pons

John Wible

HIGHWAY DEPARTMENT

Edward Brogden

Jack F. Norton

Lucian L. Smith, Jr.

INDUSTRIAL RELATIONS

George Cocoris

Craig A. Donley

Frank D. Marsh

INSURANCE DEPARTMENT

Charles H. Barnes

MEDICAL SERVICES

ADMINISTRATION

Kelso Jones

MENTAL HEALTH

DEPARTMENT

Wendall Morgan

Emmett Poundstone

Frank Ralph

G. Ricky Trawick

OIL AND GAS BOARD/

GEOLOGICAL SURVEY

A. Charles Freeman

James H. Griggs

PENSIONS AND SECURITY

Roger Burnett

Clyde McClendon

Jamie Pettigrew

Mary Lee Stapp

REVENUE DEPARTMENT

Ron Bowden

John Breckenridge

Herbert Burson

Charles E. Crumbley

J. Wade Hope

Frank Loeb

William Thompson

SECURITIES COMMISSION

Robert H. Carpenter, Jr.

SURFACE MINING

RECLAMATION COMMISSION

Ronald F. Reeves

WATER IMPROVEMENT

COMMISSION

William O. Butler, III

R. Craig Kneisel

WELFARE FRAUD

Eugenia Hofamann

Q U A R T E R L Y R E P O R T

of the

ATTORNEY GENERAL

of

A L A B A M A

For the Period

From July 1, 1979

Through September 30, 1979

**TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS
OF ALABAMA:**

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from July 1, 1979, through September 30, 1979, is published in compliance with the provisions of Section 36-15-1, Code of Alabama 1975.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The Office of the Attorney General is anxious to render prompt and efficient service to the state, county, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

CHARLES A. GRADDICK

Attorney General

OPINIONS

I N D E X

**QUARTERLY REPORT OF THE ATTORNEY GENERAL FOR THE
PERIOD JULY 1, 1979, THROUGH SEPTEMBER 30, 1979**

Page

— A —

AGING, COMMISSION ON:

County may authorize free garbage pickup service for elderly residents20

ATTORNEYS:

Juvenile Court is to determine amount of the attorney fees to be paid in indigent juvenile cases33

— C —

CIRCUIT CLERKS AND REGISTERS:

Circuit Clerks are entitled to additional compensation for services rendered as clerks of jury commission16

CITY BOARDS OF EDUCATION:

City Board of Education employees and officers do not need approval from Governor for out of state travel31

COMMISSIONS:

Tax Assessor's term of office may not be extended in order to allow him to complete duties. Tax Assessor's commissions are earned when assessments required by §40-7-2. Code of Alabama 1975, are made34

COMPENSATION:

Circuit Clerks are entitled to additional compensation for services rendered as clerks of jury commission16

CORRECTIONS, BOARD OF:

Degree of corrective medical treatment required to be given prisoners discussed25

COUNTIES:

Where there is an existing public library, the power to establish a joint library service and to determine the number of members on the joint library board rests with the existing library board. Where there is no existing library, the power to establish a joint library service and to determine the number of members on the joint board rests with the county and/or city governments desiring to establish the joint library service13

County may authorize free garbage pickup service for elderly residents20

Pursuant to Section 15-9-62, infra, the state is required to pay ten cents per mile to the county sheriff for removing prisoners or insane persons. In the event that the sheriff uses a county owned vehicle, he is required to pay to the county the ten cents per mile which he collects from the state	26
County Commissions have authority to work prisoners sentenced to hard labor for the county	29
Juvenile Court is to determine amount of the attorney fees to be paid in indigent juvenile cases	33

COURTS:

Witness fees must be paid into the state treasury if they are unclaimed after three months from the time they were collected and subject to disbursement	22
Juvenile Court is to determine amount of the attorney fees to be paid in indigent juvenile cases	33

CULLMAN COUNTY:

County may authorize free garbage pickup service for elderly residents	20
--	----

— D —**DISTRICT ATTORNEYS:**

District Attorney may compel expert witness to testify as any other witness or may pay expert witness fee from solicitor's fund	21
---	----

— E —**EDUCATION:**

City Board of Education employees and officers do not need approval from Governor for out of state travel	31
---	----

ESTATES:

Where petition for letters of administration or for letters testamentary state there is no estate, no bond is required of the individual to whom the letters are granted	14
--	----

EXECUTORS:

Where petition for letters of administration or for letters testamentary state there is no estate, no bond is required of the individual to whom the letters are granted	14
--	----

EXPENSES:

Pursuant to Section 15-9-62, infra, the state is required to pay ten cents per mile to the county sheriff for removing prisoners or insane persons. In the event that the sheriff uses a county owned vehicle, he is required to pay to the county the ten cents per mile which he collects from the state	26
--	----

— F —

FEES:

District Attorney may compel expert witness to testify as any other witness or may pay expert witness fee from solicitor's fund	21
Witness fees must be paid into the state treasury if they are unclaimed after three months from the time they were collected and subject to disbursement	22
It is the clear intent of the legislature in enacting Act 79-797 of the 1979 Legislature to provide for licensing, registration and ad valorem taxation of motor vehicles beginning October 1, 1980, and the provisions of the Act with regard to fees are clearly intended to be effective beginning October 1, 1980	24

FRANKLIN COUNTY:

Tax Assessor's term of office may not be extended in order to allow him to complete duties. Tax Assessor's commissions are earned when assessments required by §40-7-2, Code of Alabama 1975, are made	34
--	----

FUNDS:

City may expend community development funds to aid in repair of railroad tracks	18
Witness fees must be paid into the state treasury if they are unclaimed after three months from the time they were collected and subject to disbursement	22

— G —

GOVERNOR:

City Board of Education employees and officers do not need approval from Governor for out of state travel	31
---	----

— I —

INDIGENTS:

Juvenile Court is to determine amount of the attorney fees to be paid in indigent juvenile cases	33
--	----

INTERSTATE TRAVEL:

City Board of Education employees and officers do not need approval from Governor for out of state travel	31
---	----

— J —

JUDGES OF PROBATE:

Where petition for letters of administration or for letters testamentary state there is no estate, no bond is required of the individual to whom the letters are granted	14
--	----

JUDICIAL COMPENSATION COMMISSION:

Circuit Clerks are entitled to additional compensation for services rendered as clerks of jury commission16

JURY COMMISSION:

Circuit Clerks are entitled to additional compensation for services rendered as clerks of jury commission16

— L —

LIBRARIES:

Where there is an existing public library, the power to establish a joint library service and to determine the number of members on the joint library board rests with the existing library board. Where there is no existing library, the power to establish a joint library service and to determine the number of members on the joint board rests with the county and/or city governments desiring to establish the joint library service13

LICENSE TAGS:

Act 797, Acts of Alabama 1979 takes effect October 1, 1980. The Department of Revenue is not required to bill for a deficiency or grant refunds for any change in annual amounts received. Fleet and commercial vehicles shall be registered during the months of October and November. The cost of issuing a special license plate for handicapped persons should be at no additional cost27

— M —

MOTOR VEHICLES:

It is the clear intent of the legislature in enacting Act 79-797 of the 1979 Legislature to provide for licensing, registration and ad valorem taxation of motor vehicles beginning October 1, 1980, and the provisions of the Act with regard to fees are clearly intended to be effective beginning October 1, 198024

Act 797, Acts of Alabama 1979 takes effect October 1, 1980. The Department of Revenue is not required to bill for a deficiency or grant refunds for any change in annual amounts received. Fleet and commercial vehicles shall be registered during the months of October and November. The cost of issuing a special license plate for handicapped persons should be at no additional cost27

MUNICIPALITIES:

Where there is an existing public library, the power to establish a joint library service and to determine the number members on the joint library board rests with the existing

library board. Where there is no existing library, the power to establish a joint library service and to determine the number of members on the joint board rests with the county and/or city governments desiring to establish the joint library service	13
City may expend community development funds to aid in repair of railroad tracks	18

— O —

OFFICERS AND OFFICES:

Tax Assessor's term of office may not be extended in order to allow him to complete duties. Tax Assessor's commissions are earned when assessments required by §40-7-2, Code of Alabama 1975, are made	34
--	----

— P —

PRISONS AND PRISONERS:

Degree of corrective medical treatment required to be given prisoners discussed	25
County Commissions have authority to work prisoners sentenced to hard labor for the county	29

PUBLIC LIBRARY SERVICE:

Where there is an existing public library, the power to establish a joint library service and to determine the number of members on the joint library board rests with the existing library board. Where there is no existing library, the power to establish a joint library service and to determine the number of members on the joint board rests with the county and/or city governments desiring to establish the joint library service	13
---	----

— R —

RAILROADS:

City may expend community development funds to aid in repair of railroad tracks	18
---	----

REVENUE DEPARTMENT:

Act 797, Acts of Alabama 1979 takes effect October 1, 1980. The Department of Revenue is not required to bill for a deficiency or grant refunds for any change in annual amounts received. Fleet and commercial vehicles shall be registered during the months of October and November. The cost of issuing a special license plate for handicapped persons should be at no additional cost	27
---	----

— S —

SHERIFFS:

Pursuant to Section 15-9-62, infra, the state is required to pay ten cents per mile to the county sheriff for removing prisoners or insane persons. In the event that the sheriff uses a county owned vehicle he is required to pay to the county the ten cents per mile which he collects from the state26

SOLICITOR'S FUND:

District Attorney may compel expert witness to testify as any other witness or may pay expert witness fee from solicitor's fund21

SOLID WASTE DISPOSAL:

County may authorize free garbage pickup service for elderly residents20

— T —

TAX ASSESSORS:

Tax Assessor's term of office may not be extended in order to allow him to complete duties. Tax Assessor's commissions are earned when assessments required by §40-7-2, Code of Alabama 1975, are made34

TAXATION:

It is the clear intent of the legislature in enacting Act 79-797 of the 1979 Legislature to provide for licensing, registration and ad valorem taxation of motor vehicles beginning October 1, 1980, and the provisions of the Act with regard to fees are clearly intended to be effective beginning October 1, 198024

— W —

WILLS:

Where petition for letters of administration or for letters testamentary state there is no estate, no bond is required of the individual to whom the letters are granted14

July 11, 1979

Honorable Anthony Miele
Director

Alabama Public Library Service
6030 Monticello Drive
Montgomery, Alabama 36130

Alabama Public Library Service-Joint Library Service.

Where there is an existing public library, the power to establish a joint library service and to determine the number of members on the joint library board rests with the existing library board. Where there is no existing library, the power to establish a joint library service and to determine the number of members on the joint board rests with the county and/or city governments desiring to establish the joint library service.

Opinion by Assistant Attorney General Breland.

Dear Mr. Miele:

We received your letter dated May 2, 1979, in which you requested a response to the following inquiry:

"If city governments within a single county and the county government agree to establish a joint library with each governmental unit appointing members to the Board of Trustees, do the governmental units involved have the authority to determine the number of members on the board?"

The answer to your question is "yes," if there is not an existing public library in any of the participating governmental units. If there is no existing public library, the county commission or other governing body determines the number of members to be appointed to the board of the joint library service. However, if there is an existing library, the members of the existing library board are given the power to act on behalf of the local governmental unit in contracting with another board or governmental unit to establish a joint library service and to determine the composition of the new board.

The controlling statute on this question, **Code of Alabama 1975, §11-90-4**, reads as follows:

In lieu of establishing or maintaining free public libraries exclusively for a single county or municipality in the manner provided in this chapter, the library board of any county or municipality free public library may contract, in behalf of the political unit represented by such local library board, to and with the library board of another political unit or governmental agency or instrumentality with respect to the establishment or maintenance of joint library service upon such terms as may be

agreed upon by the several contracting parties. Where there is no existing public library, the power thus to contract shall vest in the county commission of the county or the governing body of the municipality. Included in the power conferred is the determination of the basis and personnel of representation of the local political units on the joint library board administering the joint library service established under this section. Such board, when appointed, shall have the powers and duties granted by this chapter to county or municipal library boards. County and municipal library boards or joint library boards shall have the power to cooperate in furtherance of the purpose of this chapter, and all municipal, county and joint library boards shall from time to time submit such records and reports as may be required by the public library service; provided, that nothing in this section shall be so construed as to infringe upon any municipal charter provisions governing the administration of existing free public libraries. (Acts 1919, No. 763, p. 1124; Code 1923, §1548; Acts 1939, No. 201, p. 352; Code 1940, T. 55, §288.) (Emphasis Added.)"

As this statute explicitly states, where there is an existing public library, the existing library board may contract with another board or governmental unit to establish or maintain a joint library service "upon such terms as may be agreed upon by the contracting parties." Where there is no existing public library, the county commission or other governing body determines the composition of the joint library board, including the number of members to be appointed.

I hope that this opinion answers your question adequately.

Sincerely,

CHARLES A. GRADDICK
Attorney General

July 11, 1979

Honorable Jim Corley
Judge of Probate
Autauga County
Post Office Drawer 488
Prattville, AL 36067

Wills and Estates—Probate Judges

Where petition for letters of administration or for letters testamentary state there is no estate no bond is required of the individual to whom the letters are granted.

Opinion by Assistant Attorney General Solomon.

Dear Judge Corley:

Your request for an opinion dated May 30, 1979 has been received by this office as follows:

"My question is, when the petition states that there is no estate, whatsoever, is there still a bond required, and if so, what is the minimum amount?"

Code of Alabama 1975, §43-2-80, provides the following:

"Persons required to give bond; amount; sureties required; approval by probate judge.

"Every person appointed executor, administrator or special administrator, except in cases otherwise provided for in this article, must give bond, with at least two sufficient sureties or a sufficient guaranty or surety company, payable to and to be approved by the judge of probate of the county having jurisdiction of the estate, in a penalty prescribed by him, which must be a sum not less than double the estimated value of the personal property and double the estimated value of the rent of the real estate of the decedent for a term of three years, or at the discretion of the judge of probate, in a sum not less than double the estimated value of the real and personal property of the estate and conditioned to perform all the duties which are or may be required of him as such executor or administrator. But an executor or administrator, other than the general administrator, or the sheriff or an executor relieved from giving bond, who has not given bond in double the estimated value of the estate, real and personal, of the decedent, must not obtain an order for the sale of lands of the decedent and must not, under any authority or power, make sale of any lands of the decedent, until he has given bond in double the estimated value of such lands. (Code 1852, §§1683, 1684; Code 1867, §§2003, 2004; Code 1876, §§2365, 2366; Code 1886, §66; Code 1907, §2540; Code 1923, §5762; Code 1940, T. 61, §96.)"

The purpose of requiring a bond for the executor or administrator of an estate is to insure the proper administration of the estate including the payment of debts and the distribution of the remainder. Where there is no estate there is nothing to protect or to insure. In such cases no bond is required.

I would like to point out that there is nothing in our law to prohibit the granting of letters of administration or letters testamentary on account of the nonexistence of assets in this state. **Watson v. Collins' Adm'r.**, 37 Ala. 587; **Loeb et al. v. Calloway et al.**, 250 Ala. 524, 35 So. 2d 198.

The courts have also held that the mere failure of an administrator to give bond as required by the order appointing him does not make his

appointment void or subject to collateral attack. See **Ex Parte Maxwell**, 37 Ala. 362, 79 Am. Dec. 62 and **Leatherwood v. Sullivan**, 81 Ala. 458, 1 So. 718.

It is therefore my opinion that where you receive an application for the appointment of an executor or an administrator of an estate with no value or assets you do not have to require a bond prior to the appointment of such individuals.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General

July 11, 1979

Honorable Devon Kiker
President

Alabama Association of Court Clerks and Registers
Russell County Courthouse
Phenix City, Alabama 36867

Jury Commission—Circuit Clerks—Compensation

Circuit Clerks are entitled to additional compensation for services rendered as clerks of jury commission.

Opinion by Assistant Attorney General Breland.

Dear Mr. Kiker:

I have received your letter to this office of March 26, 1979, in which you ask whether circuit clerks may be compensated for services rendered as jury commission clerks under Section 12-16-37(a), **Code of Alabama 1975**.

Your request for an opinion reads as follows:

"Section 12-16-37(a), **CODE OF ALABAMA 1975**, as amended, states as follows:

"In counties having 60,000 population or less according to the last federal census preceding the employment, the clerk of the circuit court may be employed as the clerk of the jury commission; and, in such counties, the clerk of the jury commission, whether he is the clerk of the court or not, shall be paid for his services rendered under the direction of the jury commission the sum of \$10.00 per day while actually engaged in performing his duties, such sum to be paid by the state; provided, that such clerk of the jury commission shall not receive more than \$600.00 as compensation for his service in any one year."

"A controversy has arisen as to whether or not the above-cited section is in conflict with Section 280 of the Constitution which reads:

'No person holding an office of profit under the United States, except postmasters, whose annual salaries do not exceed two hundred dollars, shall, during his continuance in such office, hold any office of profit under this state; nor, unless otherwise provided in this Constitution, shall any person hold two offices of profit at one and the same time under this state, except justices of the peace, constables, notaries public, and commissioner of deeds.'

"An opinion dated May 3, 1978 addressed to the Hon. Fred Huggins, Probate Judge of Clark County, Alabama, explained that the Circuit Clerk is entitled to receive additional compensation for serving as absentee election manager since this duty is foreign to the normal and usual duties of the clerk.

"Thus, our question is, may circuit clerks be compensated for their services rendered as clerk of the jury commission in accordance with Section 12-16-37(a)?"

My response to your question is that circuit clerks are entitled to the compensation provided in Section 12-16-37(a) for services rendered as clerks of the jury commission.

Act 1205, which was passed by the legislature in 1975, provides for a uniform salary for all circuit clerks to be paid by the State for the performance of all their duties. See §12-17-94, **Code of Alabama 1975**. The Act sets out the duties of the clerk to include such duties as are, or may be, conferred upon them by law. See §12-17-94(5), **Code of Alabama 1975**.

At the time Act 1205 was passed, Section 12-16-37(a), **Code of Alabama 1975** pertaining to clerks of the jury commissions was already in effect. However, it is my opinion that the services a clerk may elect to perform as clerk of the jury commission pursuant to §12-16-37(a), are not "duties" which have been conferred upon circuit clerks by law. The duties contemplated in §12-17-94 are activities which are expected and required to be performed by the clerk, such as keeping the docket sheets for civil and criminal cases and issuing subpoenas.

Contrastingly, the position of clerk of the jury commission is an optional one which the circuit clerk is not required to assume. In fact, clerks in counties having a population greater than 60,000 are prohibited from acting as clerks of the jury commissions in those counties. This fact evidences an intention by the legislature that the duties of the clerk of the jury commission be considered separate duties from those of the circuit clerk.

Although Section 12-61-37(a) pertaining to clerks of the jury commissions was already in effect when Act 1205 was passed, the duties prescribed therein are nevertheless additional duties because they are optional duties which may or may not be performed by the circuit clerk, and are, therefore, not covered by the clerk's general salary.

Further, it is my opinion that §12-16-37(a) is not in conflict with Section 280 of the Constitution and that a circuit clerk may serve as clerk of the jury commission without holding two offices of profit. The position of clerk of the jury commission is not an "office of profit" as contemplated by Section 280. The term "office of profit" has been construed to mean that the person holding the office must be invested with a portion of the sovereign power of the State; he must have some policy-making power. See **Alexander v. State ex rel. Carver**, 274 Ala. 441, 150 So. 2d 204 (1963). The position of clerk of the jury commission is an administrative job which carries with it no policy or decision-making power.

It has also been held that an "office of profit" must have a definite term, or a period of time fixed by law. In **Re Opinion of the Justices**, 254 Ala. 158, 47 So. 2d 591 (1950). There is no fixed period of time set by law for the clerk of the jury commission to serve.

Finally, as stated above, a circuit clerk's activities as clerk of the jury commission are considered additional duties. It has been held that Section 280 does not prohibit the legislature from clothing existing officers with additional powers or duties. **Eagen v. State**, 280 Ala. 438, 194 So. 2d 842 (1967), citing **Clark v. Carter**, 174 Ala. 266, 56 So. 974.

Therefore, it is my opinion that circuit clerks who elect to accept the additional optional duty of serving as clerk of the county jury commission are entitled to the compensation provided for the performance of that duty.

Sincerely,
CHARLES A. GRADDICK
Attorney General

July 25, 1979

Mayor Ernest W. Collins
c/o Legal Department
City of Tuscaloosa
P. O. Box 2089
Tuscaloosa, Alabama 35401

Municipalities — City of Tuscaloosa — Railroads —
Community Development Funds

City may expend community development funds to aid

in repair of railroad tracks.

Opinion by Assistant Attorney Smith.

Dear Mayor Collins:

This office has received your opinion request presenting the question of whether the City of Tuscaloosa may use Community Development Funds to help defray the costs of making necessary improvements at the 18th Street railroad crossing which will receive a heavy influx of traffic when the 15th Street crossing is closed for repairs.

Your request notes that the railroad will, at their expense, completely rework the tracks and the beds and will do all of the work and perform all of the labor necessary for the improvements. However, the City, in order to have the crossing improved and made safe, has obtained a \$36,000 grant of Community Development Funds to be used to help defray the costs of making the necessary improvements. These funds will be used either to pay the Railroad, or to buy equipment for the Railroad which will allow a special type of material to be placed on either side of the tracks and between the tracks to make the crossing smooth and safe. Your question is whether, in view of the provisions of **Code of Alabama 1975, §11-49-3**, the city may commit and spend Community Development Funds for this purpose.

Code of Alabama 1975, §11-49-3, in pertinent part, provides:

"Street and other railroad companies shall be required to keep their tracks in repair, using such rails as may be prescribed, and shall maintain and keep in repair the streets between their rails and for 18 inches on each side in such manner as the council or other governing body may prescribe."

While this section clearly provides that the tracks and the area between and for 18 inches on each side shall be repaired by the railroad company in the manner prescribed by the governing body, there is no prohibition against participation in this endeavor by the municipality.

A municipality may expend funds to remedy defects in the streets, avenues and public ways. While a municipality is under no obligation to provide funding for railroad track repair, Section 11-49-3 provides that repair shall be made in the manner prescribed by the governing body and the council may, at its own choosing, expend funds for this purpose. Reimbursement to the railroad company for services or material would fall within the category of legitimate expenditures as would the purchases of material by the city. However, it would appear that the purchase of permanent equipment for the railroad company would not be legitimate as such would be in violation of Constitution of Alabama 1901, Section 94 as amended.

It is, therefore, the opinion of this office that the City of Tuscaloosa may commit and spend Community Development Funds for the purpose

of reimbursing the railroad for labor and/or material or to purchase material to be used in making the railroad crossing safe.

I do hope that this response sufficiently answers the question presented. If, however, we may be of further service, please do not hesitate to call on us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

August 10, 1979

Honorable Randall Shedd
Chairman

Cullman County Commission
P. O. Box 698

Cullman, Alabama 35055

Counties—Solid Waste Disposal—Commission on Aging
County may authorize free garbage pickup service for
elderly residents.

Opinion by Assistant Attorney General Stephens.

Dear Mr. Shedd:

I have received and considered the request which you submitted on behalf of the Cullman County Commission which states as follows:

"We request an official opinion on the legality of the following question which has been presented to the County Commission. "The Cullman County Commission has operated a county-wide garbage pickup service since January 1, 1976. Residential customers are charged a monthly service fee of \$3.00.

"The County Office for the Elderly funded by the Alabama Commission on Aging and the County Commission has asked the Commission to authorize free garbage service for the older citizens in the county.

"We request an opinion as to whether the County Commission may legally furnish garbage pickup service without charge to elderly residents of the County and continue to charge for service to other residential customers."

It is my opinion that the county may provide free garbage pickup service to elderly residents. The county commission is authorized under Section 22-27-3, **Code of Alabama 1975**, to provide garbage pickup service for county residents and, Section 22-27-5, **Code of Alabama 1975**, provides that the county commission providing such service "may establish fees,

charges and rates. . . ." The language used in this statute indicates that the county commission has some discretion in establishing fees for the service it provides and the establishment of different fees for certain older citizens on fixed income or no income would not seem to me to be an abuse of that discretion. Our laws are replete with provisions which grant special treatment for the elderly citizens in our society who have paid their dues but who are now hit hardest by the inflation which has occurred and is occurring in our state and country.

Sincerely,

CHARLES A. GRADDICK
Attorney General

August 10, 1979

Honorable Wiley P. Henderson

District Attorney

P. O. Box 301

Flomaton, Alabama 36441

District Attorney—Solicitor's Fund

District Attorney may compel expert witness to testify as any other witness or may pay expert witness fee from solicitor's fund.

Opinion by Assistant Attorney General Stephens

Dear Mr. Henderson:

Reference is made to your request for an opinion from the Attorney General as to the payment of expert witness fees.

You posed the following question:

"In a recent criminal case a defendant was charged with Manslaughter in the First Degree and convicted of Manslaughter in the Second Degree. The conviction of this defendant to a large degree was dependent upon the three days attendance and testimony of an expert Medical Doctor who had provided medical treatment for the deceased just prior to his death.

"Thereafter, I received an invoice for \$150.00 expert witness fee which is in excess of the amount allowed by statute to be paid for the attendance of witnesses in a criminal case.

"Accordingly I respectfully request a formal opinion as to whether the expert witness fee can be legally paid from the Solicitor's Fund."

Code of Alabama 1975, Section 12-21-181 concerning the appearance and testimony of expert witnesses states:

"A witness who is an expert in any art, science, trade or profession may be compelled to appear and testify to an opinion as such expert in relation to any matter whenever such opinion is material evidence relevant to an issue on trial before a court or jury without payment or tender of compensation other than the per diem and mileage allowed by law to witnesses under the same rules and regulations by which he can be compelled to appear and testify as to his knowledge of facts relevant to the same issue."

In considering this statute, the Supreme Court of Alabama concluded in **Ex Parte Demente**, 53 Ala. 389 and **Hartley v. Alabama National Bank**, 247 Ala. 651, 25 So. 2d 680 (1946), that an expert witness answerable to the process of the court may be compelled to testify without payment or tender of special compensation except the per diem and mileage allowed a witness by law. Thus, a district attorney **may** compel testimony by an expert witness without paying compensation other than that paid any other witness.

However, Section 12-21-181 does not **require** a district attorney to compel testimony by an expert witness without paying appropriate compensation in all circumstances. Often it is necessary for a district attorney to seek expert testimony from an expert who has had no prior involvement in or knowledge of the matter about which he is to testify and the expert will have to conduct tests or studies or otherwise prepare for his testimony. In such cases the district attorney may pay additional expert witness compensation from the solicitor's fund.

If our office can be of further assistance, please do not hesitate to call on us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

August 10, 1979

Honorable Maurice W. Castle
Circuit Clerk
Mobile County
Courthouse
Mobile, AL 36602

Courts—Public Funds

Witness fees must be paid into the state treasury if they are unclaimed after three months from the time they were collected and subject to disbursement.

Opinion by Assistant Attorney General Solomon.

Dear Mr. Castle:

This office is in receipt of your request dated June 18, 1979, for an opinion which reads as follows:

"This office requests an opinion from you regarding Witness Fees held by the Clerk of the Circuit Court set out in Title 12, Volume II, page 435, Section 12-19-137 — Claims for payment of witness fees, etc., and Section 12-19-138, Payment of non-disbursed fees to successor.

"Heretofore this office has held these witness fees for Two years and on the 1st day of February of each year have paid these fees into the County Treasurer.

"The question has arisen 'Should these fees be paid into the State Treasurer after being held for ninety days?' It doesn't set that out in Section 12-19-137.

"These fees are collected and held in City Appeal cases only."

Prior to the passage and approval of Amendment 328 to the Constitution of Alabama, and the enactment of Act 1205, Acts of Alabama of 1975, the responsibility for financing the operation and financing of the court system of this state was divided between the state and local governments. Act 1205 created the unified judicial system and gave the state the primary responsibility for court finances.

Prior to the enactment of Act 1205, Section 12-19-137 contained specific directions to turn over any unclaimed witness fees to the county treasury. This language was omitted in the Amendment to Section 12-19-137 in Act 1205. In addition the Amendment stated that persons presenting claims for witness fees shall be paid "out of state funds" the fee due such person. This is clear indication that such funds are now considered to be state funds.

Furthermore, Section 12-19-138 provides a procedure for accounting for witness fees on hand when a successor takes office and provides that clerks are relieved from liability with regard to fees when all fees have been paid to their successor or to the State Treasurer. This provision was also added by Act 1205.

As Amended by Act 1205, Section 12-19-137 now refers to payment out of state funds and Section 12-9-138 now refers to making payment of witness fees to the state treasury. These references plus the fact that Amendment 328 to the Constitution and Act 1205 changed the method of financing court operations to make the state primarily liable for such expenses leads to the logical conclusion that all unclaimed witness fees belong to the state and should be deposited in the state treasury. Furthermore as Section 12-19-137 provides that all claims for witness fees are forever barred after 3 months from the date of their collection there is no reason for such unclaimed funds to remain in the clerks' custody and they should be deposited in the state treasury

if they remained unclaimed at the expiration of the 3 month period.

Your question is therefore answered in the affirmative.

It should be noted that these funds do not constitute fiduciary funds within the meaning of §19-3-80, **Code of Alabama 1975**. A previous ruling of this office held that this section does not apply to unclaimed witness fees in courts of record. Since Sections 137 and 138 deal with courts of record, §19-3-80, *supra*, is inapplicable.

I trust this satisfactorily answers your questions.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General

August 28, 1979

Honorable Sammie Daniels, President
Alabama Probate Judges Association
Marengo County
Linden, AL 36748

TAXATION—MOTOR VEHICLES — FEES

It is the clear intent of the legislature in enacting Act 79-797 of the 1979 Legislature to provide for licensing, registration and ad valorem taxation of motor vehicles beginning October 1, 1980 and the provisions of the Act with regard to fees are clearly intended to be effective beginning October 1, 1980.

Opinion by Assistant Attorney General Philip Davis.

Dear Judge Daniels:

You have requested of this office, by letter dated August 14, 1979, an opinion respecting the implementation date of Act 79-797 (House Bill 225) of the 1979 Legislature, and in particular the effective date of the changes in fees made in Sections 7 and 9 of said Act.

The Act provides for five-year tags, and provides for administration of the licensing, registration and ad valorem system with respect to motor vehicles in this state. The first section of the Act states unequivocally that it is to be effective from and after October 1, 1980. Subsequent sections of the Act refer to the conversion year and to the registration as provided to begin after October 1, 1980. There is no where in the Act any specific reference to the administration of the current licensing and registration system nor is there any indication within the Act of an intention to change the system currently in effect prior to October 1, 1980.

Section 11 of the Act provides for legislative committee to oversee implementation and administration of the Act and it is clear that this committee is to have authority respecting the licensing and registration procedures effective on and after October 1, 1980.

In view of the foregoing, it is the opinion of this office that the changes provided in Section 7(b) and Section 9 of the Act, respecting fees which are to be collected pursuant to the Act by the administrative officials, become effective on and after October 1, 1980 and not before. It is the clear intent of the legislature in enacting Act 79-797 (House Bill 225) of the 1979 Legislature to provide for the licensing, registration and ad valorem taxation of motor vehicles within Alabama from and after October 1, 1980 and that, although the Act became effective upon approval by the Governor on August 9, 1979, it becomes operative only with respect to the licensing registration and ad valorem taxation of motor vehicles from and after October 1, 1980.

Sincerely,
CHARLES A. GRADDICK
Attorney General

August 29, 1979

Honorable R. G. Britton, Commissioner
Alabama Board of Corrections
101 South Union Street
Montgomery, Alabama 36130

Board of Corrections—Prisons—Prisoners

Degree of corrective medical treatment required to be given
prisoners discussed.

Opinion by Assistant Attorney General Knight.

Dear Commissioner Britton:

Reference is made to your request for an opinion from the Attorney General as to the following matter:

“Under what circumstances, if any, is the Board of Corrections required to administer corrective medical treatment to inmates with pre-existing medical conditions?”

The Supreme Court of the United States has stated that prison officials cannot show a deliberate indifference to the serious medical needs of prisoners. **Estelle v. Gamble**, 429 U.S. 97. Considering **Newman v. State of Alabama**, 503 F. 2d 1320, rehearing denied 506 F. 2d 1056, cert. denied, 421 U.S. 948, an inmate is entitled to the adequate medical care that is genuinely necessary for a medical condition that existed prior to his incarceration or occurring after his incarceration.

Adequate medical care cannot be definitely defined in that it

would differ in each case. However, it does not require prisoner officials to correct pre-existing medical conditions which do not cause the inmate's health to deteriorate or conditions which would not cause definite harm to the inmate's well-being if they were not treated. Furthermore, the requirement of adequate medical care does not include an "elective type of medical care."

If our office can be of further assistance, please do not hesitate to call on us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

September 10, 1979

Honorable G. C. Dean, Jr.
State Comptroller
Department of Finance
Division of Control and Accounts
Montgomery, Alabama 36130

Counties—Sheriffs—Expenses

Pursuant to Section 15-9-62, *infra*, the state is required to pay ten cents per mile to the county sheriff for removing prisoners or insane persons. In the event that the sheriff uses a county owned vehicle, he is required to pay to the county the ten cents per mile which he collects from the state.

Opinion by Assistant Attorney General Robinson.

Dear Sir:

In a recent letter addressed to this office, you made the following request:

"Reference is made to your opinion dated January 19, 1979, directed to Honorable Bettye Frink, State Auditor, concerning mileage allowance for sheriffs in removing prisoners or insane persons.

Under Title 15-9-62, 1975 Code of Alabama, the State of Alabama is required to pay the expenses incurred in bringing an accused felon back to Alabama, **including the expenses of transportation**. This section also allows payment of .10c per mile if the trip is made in the personal car of the sheriff or other agent. Title 36-22-18 requires the county commission to furnish the sheriff with all necessary equipment, including automobiles.

Title 36-22-17 requires the sheriff to pay into the county general fund, all fees, commissions, allowances, etc., received, which includes travel reimbursements from the State.

Traditionally, the Comptroller's Office has paid the .10c per mile to a sheriff for the use of a county automobile with the certain knowledge that the sheriff was required to pay this to the county. This has been done with the knowledge and approval of the Examiners of Public Accounts. In their continuing audit of county records, they determine whether or not a sheriff has complied with the law. In the past, we have taken the position that payment of this .10c per mile on a county automobile was the only means we had of complying with the legal requirement that the State must pay all expenses for removing an accused felon, **including expenses of transportation.**

In view of your recent opinion to Mrs. Frink, we are placed in the position of not being able to comply with that requirement. My request to you concerns whether or not there is any legal means for this office to reimburse counties for expenses which the code requires us to pay, relative to transportation."

It is my opinion that you should continue to pay ten cents per mile to the county sheriff pursuant to Section 15-9-62, supra. A thorough review of the Attorney General opinion dated January 19, 1979, directed to the Honorable Bettye Frink, and the request which prompted that opinion indicates that the sheriff is prohibited from retaining the ten cents per mile if he uses a county owned vehicle to remove prisoners or insane persons. In the event the sheriff does use a county owned vehicle to remove prisoners or insane persons, the sheriff must turn over to the county any amounts which he receives from the state representing reimbursement for expenses of transportation associated with the vehicle which he uses.

If I may be of any further assistance to you regarding this matter, please do not hesitate to contact me.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

September 27, 1979

Honorable Ralph P. Eagerton, Jr.
Commissioner, Department of Revenue
Montgomery, AL 36130

License Tags—Motor Vehicles—Revenue Department

Act 797, **Acts of Alabama** 1979 takes effect October 1, 1980. The Department of Revenue is not required to bill for a deficiency or grant refunds for any change in annual amounts received. Fleet and commercial vehicles shall be registered during the months of October and November. The cost of issuing a special license plate for handicapped persons should be at no additional cost.

Opinion by Assistant Attorney General Breckenridge.

Dear Commissioner Eagerton:

Your letter dated August 17, 1979, addressed to the Attorney General, requesting an opinion as to the construction of language contained in Act 797, **Acts of Alabama** 1979, has been received by this office. Your request for an opinion contained four separate questions concerning separate sections of Act 797. Each question will be set forth below, followed by the answer thereto:

1. When does the Act take effect?

Section 1 of Act 797, provides that the Act shall be "effective from and after October 1, 1980 . . ." It is my opinion that the above quoted portion of the statute is a controlling manifestation of the intention of the Legislature that all the provisions of Act 797 should take effect on October 1, 1980. This opinion is in consonance with an opinion of the Attorney General by Assistant Attorney General Philip Davis released August 28, 1979, addressed to the Honorable Sammie Daniels, President, Alabama Probate Judges Association, Linden, Alabama.

2. If more or less money is received in the conversion year, is the Department of Revenue required to bill for deficiency and to grant refunds for any increase?"

Since the language used in this statute and the intention of the Legislature on this point is quite clear, the fundamental rule of construction is that the intention of the Legislature must be given its affect and force as expressed in the language of the statute. **Davis v. State**, 16 Ala.App. 397, 78 So. 313; **Cheek v. Odom**, 20 Ala.App. 31, 100 So. 782; **Starlite Lanes, Inc. v. State**, 283 Ala. 48, 214 So.2d 324. Where the language of the statute is plain and unambiguous, the statute will be construed to mean exactly what it says. **State v. Robinson Land and Lumber Co. of Alabama**, 262 Ala. 146, 77 So.2d 641; **Henry v. McCormick Bros. Motor Car Co.**, 232 Ala. 196, 167 So. 256; **White v. City of Decatur**, 25 Ala.App. 272, 144 So. 872, cert. den. 225 Ala. 646, 144 So. 873, 86 A.L.R. 914.

It is my opinion that the Department of Revenue would not be required to bill for any deficiency or to grant refunds for any increase due to the proration of fees.

3. "When shall truck tags be issued?"

Section 2 of the Act provides:

"All fleets and commercial vehicles shall be registered during the months of October and November."

It is my opinion, therefore, that fleet vehicles and commercial vehicles shall be registered during the months of October and November. Motor vehicle license tags for private trucks and all trucks other than fleet vehicles or commercial vehicles shall be issued during the months of November and December as provided by Section 2 of the Act.

4. "What is to be the cost of the yearly tag to the handicapped?"

Section 5 of Act 797 provides that "the purchase of these tags shall be optional with the vehicle owner, who shall bear the cost of such plates" It is my opinion that it was the intent of the Legislature in adopting the provision providing a special license plate for handicapped persons who operate their motor vehicles with hand controls to encourage the handicapped to obtain the specially designed license plates. In order to encourage the handicapped drivers to obtain such plates, it is my belief that the Legislature intended the cost of such plates to merely cover the cost of handling the issuance of the license plates and should in effect be nominal. In order to hold the cost of the tag to a minimum, it is my opinion that the Legislature intended that the cost of the tag should be defrayed by having the handicapped person purchase a regular tag which would then be exchanged for the specially designed "handicapped tag" at no additional cost.

I hope I have fully answered the questions contained in your letter, and if I can be of any further service to you in this matter, please do not hesitate to contact me.

Sincerely,

CHARLES A. GRADDICK
Attorney General

September 27, 1979

Honorable James Earl Johnson
Sheriff of Chilton County
Clanton, Alabama 35045

Counties—Prisoners—Work for County

County Commissions have authority to work prisoners sentenced to hard labor for the county.

Opinion by Assistant Attorney General DeBardelaben

Dear Sir:

This letter is in response to your letter of August 22, 1979 asking

if the Chilton County Commission has authority to work county prisoners who have been sentenced to perform hard labor for the county, The answer to your question is in the affirmative.

Section 14-5-1, **Code of Alabama 1975** provides:

"Hard labor for the county; as used in this Code or any other law of the state, shall include labor on public roads, public bridges and other public works in the county."

Section 14-5-5, **Code of Alabama 1975** provides:

"Nothing in this chapter shall prevent any county of this state from working its county convicts according to the law as it now exists or may hereafter be enacted, but no county convict shall be worked in any coal mine or worked under lease to any person, firm or corporation; provided, however, that **any county or counties shall have the authority to work such convicts retained by it in and around the courthouse, in and around the jail or any other public building or works of the county.**" (Acts 1927, No. 72, p. 52; Code 1940, T.45, §100, Acts 1955, No. 307, P. 705.) [Emphasis added.]

"Section 14-4-2, **Code of Alabama 1975** provides:

"**Hard labor for the county shall be under the superintendence and control of the county commission**, which shall determine in what manner and on what particular works the labor shall be performed, and all convicts sentenced to hard labor for the county shall be under the direction and control of the county commission when worked in the county where convicted, unless otherwise provided by court order. It may hire sufficient guards for the safekeeping and maintenance of the convicts on the public roads of the respective counties. (Acts 1907, No. 85, p. 179; Acts 1915, No. 580, p. 630; Code 1923, §§1375, 3676; Code 1940, T. 45, §75.) [Emphasis added.]

Section 14-4-6, **Code of Alabama 1975** provides:

"Whenever the county commission of a county deems it to the best interest of the county to use the county convicts in building, repairing and working the public roads of the county, it may so work them under rules and regulations to be prescribed by the board of corrections, which shall be uniform throughout the state for working county convicts on the public roads. (Code 1896, §4528; Acts 1907, No. 85, p. 179; Code 1907, §6581; Code 1923, §3684; Code 1940, T. 45, §81.)

Section 14-5-6, **Code of Alabama 1975** provides:

"County commissions in all counties of this state may use county convict labor for use in the construction or maintenance of any drains or outlets for drains, for reopening of any filled

or partly filled drains or for the construction or maintenance of any levees in connection with drains necessary, desirable or convenient for the full development, preservation and maintenance or use of any drains or drainage district established or now constructed or that may be hereafter established or constructed under the provisions of general laws relating to drainage districts." (Acts 1932, Ex. Sess., No. 168, p. 196; Code 1940, T. 45, §101.)

Section 14-5-8, **Code of Alabama 1975** provides:

"The use of county convict labor under the provisions of sections 14-5-6, 14-5-7 and 14-11-2 shall be such uses as may be agreed to by the county commissions in counties that may use convict labor; provided, that such convict labor shall not be used for such purposes unless, after entering an agreement for such use of convict labor on the minutes of the county commission, the agreement with the proposed plan for its operation shall be submitted to the state health officer for review as to whether the same may conflict with the public health statutes or rules or regulations of the state board of health, and for his opinion on what may be accomplished that will or may contribute to the public health or sanitation. The conclusion as to such finding shall be signed by the said state health officer and be filed with the county commission of such county. (Acts 1932, Ex. Sess., No. 168, p. 196; Code 1940, T. 45, §104.)

The County Commission has the authority to work prisoners sentenced to hard labor for the county as provided by the above quoted statutes.

I do hope that this response fully answers your question. If, however, we may be of further assistance, please do not hesitate to call on us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

September 27, 1979

Mr. A. C. Allen, Jr.
Superintendent

Dothan City Schools
500 Dusy Street
Dothan, Alabama 36301

Boards of Education—Interstate Travel—Governor

Section 36-7-21 not applicable. City Board of Education employees and officers do not need approval from Governor for out of state travel.

Dear Mr. Allen:

I have your letter of August 29, 1979, in which you request an opinion of this office regarding the applicability of Section 36-7-21, **Code of Alabama 1975**, to out of state travel of members, officers and employees of city boards of education. Section 36-7-21 provides that persons traveling in the service of the state shall be allowed all of their actual and necessary expenses.

provided, that such travel shall have first been fully authorized in writing by the Governor.

Your specific question is whether members, officers and employees of City Boards of Education who travel out of state in the service of the local board must first obtain the written authorization of the Governor in order to later be reimbursed their actual expenses.

Your question has been answered in the negative in an opinion of this office to Dr. LeRoy Brown, State Superintendent of Education, August 10, 1971. The opinion is reported at p. 23 of Vol. 144, Quarterly Reports of the Attorney General. A copy of that opinion is enclosed for your convenience.

The opinion to Dr. Brown considers your question as pertains to Act No. 470, 1969 Regular Session, Alabama Legislature. With subsequent unrelated amendments, Section 2 of Act No. 470 is now codified as Section 36-7-21.

I trust that we have answered your question sufficiently and that you will feel free to call upon this office if further assistance should be necessary.

* * * * *

August 10, 1971

Honorable LeRoy Brown, Superintendent

State Department of Education

State Office Building

Montgomery, Alabama 36104

Schools—City Boards of Education—County Boards of Education—Expenses.

State Statute limiting travel expenses does not apply to city & County Boards of Education.

Opinion by Assistant Attorney General Madison.

Dear Dr. Brown:

I have your letter of August 5, 1971, which is as follows:

“Act No. 470, enacted in the 1969 Regular Session of the Legislature, regulates the payment of expenses for official state travel. This Act does not explicitly refer to travel of personnel employed by local city and county boards of education. Your opinion as to the application of this Act to the travel of personnel employed by local boards of education would be appreciated.”

It is my opinion that Act No. 470, enacted Regular Session 1969, does not apply to travel expenses of personnel employed by city and county boards of education.

Cordially yours,

WILLIAM J. BAXLEY
Attorney General

* * * * *

Sincerely,
CHARLES A. GRADDICK
Attorney General

September 27, 1979

Honorable William B. Duncan
Chairman,
Lauderdale County Commission
P.O. Box 1059
Florence, Alabama 35630

Counties—Indigent Juveniles—Compensation of Attorneys

Juvenile Court is to determine amount of the attorney fees to be paid in indigent juvenile cases.

Opinion by Assistant Attorney General Knight.

Dear Mr. Duncan:

Reference is made to the request by the Lauderdale County Commission for an opinion from the Attorney General as to the following matter:

“Does Section 15-12-21 of the 1975 Code of Alabama apply in regard to the amount of compensation to be paid by the County pursuant to Section 12-15-10 of the 1975 Code of Alabama to attorneys who are appointed to represent indigent juveniles? If not, how is the fee of attorneys appointed to indigent juveniles to be determined?”

The Supreme Court ruled in **Lewis v. Hilt**, 13 ABR 1524, (May 11, 1978) that **Code of Alabama 1975**, Section 12-15-10 requires a county to pay attorney fees in indigent juvenile cases. The court also said that Title 15, Chapter 12, Articles 1 and 2 (of which Section 15-12-21 is a part) concerns **criminal** procedure and are not applicable to juvenile proceedings. Section 15-12-6 requires the State to pay attorney fees in indigent criminal cases and Section 15-12-21 sets out the amount of compensation to be paid the attorneys in these cases. Therefore, Section 15-12-21 is not applicable to the amount of compensation which the county must pay attorneys in indigent juvenile cases.

Code of Alabama 1975, Section 12-15-10 reads:

"All expenses necessary or appropriate to the carrying out of the purposes and intent of this chapter and all expenses of maintenance and care of children that may be incurred by order of the court in carrying out the provisions and intent of this chapter, except costs paid by parents, guardians or trustees, court costs as provided by law and attorney fees shall be valid charges and preferred claims against the county and shall be paid by the county treasurer when itemized and sworn to by the creditor or other persons knowing the facts in the case and approved by the court."

This section states that the amount of attorney fees to be paid in juvenile cases is the amount properly submitted to the county commission and approved by the court. Thus, in accordance with this section the attorney fees in juvenile cases are to be set by the county district judge presiding over the juvenile court.

Th county commission may request that the district judge use **Code of Alabama 1975**, Section 15-12-21 as a guideline but the amount of the fee set is ultimately determined by the juvenile court.

If our office can be of further assistance, please do not hesitate to call on us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

September 28, 1979

Honorable Leonard O. Allen, Jr.

Tax Assessor

P. O. Box 417

Russellville, Alabama

Tax Assessors—Commissions

Tax Assessor's term of office may not be extended in order to allow him to complete duties.

Tax Assessor's commissions are earned when assessments required by §40-7-2, **Code of Alabama 1975**, are made.

Opinion by Assistant Attorney General Bowden.

Dear Mr. Allen:

You state in your request for an opinion dated September 6, 1979, that your present term of office will expire on September 30, 1979; that the newly elected tax assessor is due to take office October 1, 1979; and that due to circumstances beyond your control, you will not be able to complete the abstract required by §40-7-36, **Code of Alabama 1975**, by September 30. You ask whether a legal way exists for you to be granted an extension of time beyond September 30 within which to complete the abstract for the 1979 ad valorem taxes so that you will be entitled to your full commissions for the 1979 year.

Section 36-3-5, **Code of Alabama 1975** provides that the tax assessor's term of office shall be six years from October 1 next after his election until his successor is elected and qualified. I can find no legal basis for extending your term of office beyond the statutorily prescribed time. Therefore, your question is answered in the negative. However, this does not mean that you will forfeit your commissions on assessments completed by you but for which you have not completed the abstract required by §40-7-36. Your commissions for both state and county taxes are earned when the assessments required by §40-7-2, **Code of Alabama 1975**, are made. The only exception to this is that §40-4-2 requires the tax assessor, in the case of special county or district taxes for school purposes, in addition to making the assessments, to properly apportion these taxes before he earns his commissions. Quarterly Report of the Attorney General, vol. 117, p. 22.

Sincerely,

CHARLES A. GRADDICK
Attorney General

INFORMAL OPINIONS

During the period July 1, 1979 through September 30, 1979, the Attorney General rendered the following informal opinions.

Subject	Addressee	Date	File
	— A —		
ADMINISTRATIVE OFFICE OF COURTS			
Administrative Office of Courts—	Leland Enzor	Sept. 10	250
Jurors—Probate Courts			
AD VALOREM TAX			
Ad Valorem Tax—Exemptions—	Ken Malone	July 11	23
Classification of Property			
Ad Valorem Tax—Homestead Exemption	Ralph P. Eagerton, Jr.	Aug. 29	Revenue
Auxiliary State Forest lands—	John Kennard	Aug. 29	239
Not Subject to Reappraisal			
AGRICULTURE AND INDUSTRIES			
Two pest control firms in same location—	McMillan Lane	Aug. 29	Agri. & Ind.
operated by one operator			
ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD			
Taxes collected pursuant to Act 79-182—	Joe B. Broadwater	July 17	ABC Board
Distributed to General Fund			
ALABAMA DEVELOPMENT OFFICE			
Governor—Authority to hire assistants	Ben C. Collier	Aug. 29	Ala. Dev. Office

AMBULANCE SERVICE

Ambulance service companies— Marengo and Sumter Counties— Licensure and inspection exemption	Ira L. Myers	Aug. 29	Health
--	--------------	---------	--------

ANDALUSIA, CITY OF

Andalusia, City of—Salary— Employee Safety Incentive Plan Paving priorities discussed Municipal court authorized to direct search warrant to city police officers.	Chalmers Bryant	Aug. 10	116
	Chalmers Bryant	Sept. 10	116
	Chalmers Bryant	Sept. 10	116

ANNEXATION

Annexation—City of Florence— Town of St. Florian	William B. Duncan	July 17	213
---	-------------------	---------	-----

ATTORNEYS

District Courts—Small Claims—Attorneys	Robert R. Armstrong, Jr.	Aug. 29	237
--	--------------------------	---------	-----

— B —**BALDWIN COUNTY**

Baldwin County—Purchase uniforms for CETA employees	William B. Cooper	July 25	221
--	-------------------	---------	-----

BANKS AND BANKING

Banks and Banking—Counties— Officers and Offices	Walter J. Merrill	July 11	212
Banking—Savings and Loan Associations—Merger	Kenneth R. McCartha	Sept. 27	Banking

BARBOUR COUNTY

Barbour County—Taxation—Elections	W. Mack Price	Sept. 13	252
-----------------------------------	---------------	----------	-----

Subject	Addressee	Date	File
BESSEMER, CITY OF			
Police commissioner—	Edward P. Porter	Aug. 22	233
Workmen's Compensation Act			
BIRMINGHAM, CITY OF			
Employment, Employers, Employees—	Richard D. Martin	Sept. 13	251
Retirement—Disability Allowance			
BIRMINGHAM-JEFFERSON CIVIC CENTER AUTHORITY			
Birmingham-Jefferson Civic	Geo. D.H. McMillan, Jr.	Sept. 26	Lieutenant Governor
Center Authority—Directors	Pat Vacca	Sept. 26	256
Jefferson County—Birmingham- Jefferson Civic Center Authority	Jabo Waggoner		
BLOUNT COUNTY			
Juvenile Probation Fund in Blount County—\$3 fee may be assessed	John B. Green	Aug. 10	46
BONDS			
Surface Mining Reclamation	Thomas G. Walker, Jr.	July 17	SMRC
Commission—Reclamation Bond			
Fire Marshal—Mobile Homes— Bonds—Licenses	Albert J. Winfield	Aug. 29	Insurance
Oil and Gas Board—Certificates of deposit in lieu of bond	Thomas J. Joiner	Sept. 10	Oil & Gas Board
State Treasurer—Construction Bond— Certificates of Deposit	Annie Laurie Gunter	Sept. 13	Treasurer

BUILDING CODE

Building Commission—Promulgate Code of Minimum Building Standards

W. G. Stevenson July 17 Building Commission

BUILDING COMMISSION

Building Commission—Promulgate Code of Minimum Building Standards

W. G. Stevenson July 17 Building Commission

BULLOCK COUNTY

Tax Assessor's wife cannot be hired to work in his office.

James A. Carter Sept. 10 245

— C —

CERTIFICATES OF DEPOSIT

State Treasurer—Construction Bond—Certificates of Deposit

Annie Laurie Gunter Sept. 13 Treasurer

CIRCUIT CLERKS AND REGISTERS

Juvenile Probation Fund in Blount County—\$3 fee may be assessed

John B. Green Aug. 10 46

CITY BOARDS OF EDUCATION

Education—City and County Board of Education—Out-of-District Tuition Fee Education—City of Fort Payne

Wayne Teague Aug. 17 Education
W. A. Israel Aug. 22 234

CIVIL DEFENSE

Governor—Reorganization—Civil Defense—Military Department Governor—Civil Defense Emergency

Thomas E. Rains, Sr. Sept. 21 255
Fob James Sept. 21 Governor

Subject	File	Addressee	Date
CLARKE COUNTY County Board of Education may enforce regulation prohibiting smoking.	Billy J. Ricketts	Sept. 10	244
CLASSIFICATION OF PROPERTY Ad Valorem Tax—Exemptions— Classification of Property	Ken Malone	July 11	23
CLEBURNE COUNTY Cleburne County—Elections— Intoxicating Liquors Cleburne County—Probate Judge— Expense Allowance	Horace S. Merrill Walter J. Merrill	July 17 Sept. 27	216 212
COMPETITIVE BID LAW Municipal water board purchases— Subject to competitive bid law Emergency purchases affecting public health, safety or convenience— Not subject to competitive bids Competitive Bid Law—Construction Contracts—Houston County Competitive Bid Law—Hospitals—Contracts Bid Law—Municipalities—Energy Crisis Department of Conservation—May proceed with sale of storm damaged timber. Pensions and Security—Contract— Competitive Bid Law	Bob Hall James W. Warr Charles Whiddon Oliver E. Young, Jr. G. William Noble Richard A. Forster Gary Cooper	July 25 July 25 July 27 Aug. 10 Aug. 22 Sept. 21 Sept. 27	163 Water Improvement Commission 105 228 125 Conservation Pensions & Security

COMPTROLLER

Secretary of Senate and Clerk of House—
Cost of living pay increase.

G. C. Dean, Jr.

Aug. 29

Comptroller

CONFLICTS OF INTEREST

Utilities Board—Contract with
son of Mayor.

Gilbert R. Craft

July 2

202

Conflicts of Interest—Boards of Education
Hospital Boards—Conflicts of Interest
Municipalities—Conflicts of
Interest—Notices

Martin Ray

July 30

222

Homer W. Cornett

Sept. 10

242

John C. Jay, Jr.

Sept. 10

247

CONSERVATION

Department of Conservation—
Sale of storm damaged timber.

Richard A. Forster

Sept. 21

Conservation

CONTRACTS

Utilities Board—Contract with
son of Mayor
Highway Department—Contract with
nonprofit corporation—Implement
Federal grant

Gilbert R. Craft

July 2

202

Competitive Bid Law—Construction
Contracts—Houston County

Charles Whiddon

July 27

105

Competitive Bid Law—Hospitals—
Contracts

Oliver E. Young, Jr.

Aug. 10

228

Firefighters Personnel Stds. Ed.
Commission—Contract for training
recruit firefighters

Price E. Robinson

Aug. 29

Firefighters

Medical Services Administration—
Contract—Mental Health

W. H. Kerns

Sept. 10

Medical Services

Subject	Addressee	Date	File
State Treasurer—Construction Bond— Certificates of Deposit	Annie Laurie Gunter	Sept. 13	Treasurer
Highway Department—Contracts— State Funds	Rex K. Rainer	Sept. 27	Highway
Pensions and Security—Contract— Competitive Bid Law	Gary Cooper	Sept. 27	Pensions & Security
COOSA COUNTY House Bill 79-947 pertains only to Talladega County	Jasper Fielding	Aug. 29	100
CORPORATIONS Certain information given Alabama Industrial Development Training Institute—Not public record	Wayne Teague	July 11	Education
CORRECTIONS, BOARD OF Discharged inmate—Complete outfitting of clothing.	R. G. Britton	Sept. 13	Corrections
Medical Care—Death Row Inmates Prison and Prisoners—Private work by student inmates	R. G. Britton R. G. Britton	Sept. 13 Sept. 27	Corrections Corrections
COSTS AND FEES Municipal Court—Collect \$10 for chemical test for intoxication Juvenile Probation Fund in Blount County—\$3 fee may be assessed	Jerry Shoemaker John B. Green	July 11 Aug. 10	Public Safety 46

COUNTIES

Banks and Banking—Counties— Officers and Offices	Walter J. Merrill	July 11	212
County—Not provide insurance for assistant district attorney	Eldon Sharpe	July 17	214
Cleburne County—Elections— Intoxicating Liquors	Horace S. Merrill	July 17	216
Public Employees—Tuscaloosa County	Robert H. Johnston	July 17	215
Baldwin County—Purchase Uniforms for CETA employees	William B. Cooper	July 25	221
Macon County Commission— Appropriation to Macon County Hospital Association	Fred D. Gray	July 25	220
Competitive Bid Law—Construction	Charles Whiddon	July 27	105
Contracts—Houston County	Martin Ray	July 30	222
Conflicts of Interest—Boards of Education	Don Siegelman	July 30	Secretary of State
Education—Taxation—Counties			
Cullman County—County Commission— Expense Allowance	Randall Shedd	Aug. 10	33
St. Clair County—County Officials—Salaries	A. J. Blake	Aug. 29	240
Counties—Sheriffs—Personnel	Melvin Stephens	Sept. 27	67

COUNTY BOARDS OF EDUCATION

Education—County and City Boards— Out-of-district tuition fee	Wayne Teague	Aug. 17	Education
County Boards of Education— Vacancy filled by majority vote	James Lemaster	Aug. 29	238

Subject	Addressee	Date	File
County Board of Education may enforce regulation prohibiting smoking.	Billy J. Ricketts	Sept. 10	244
Superintendent—Board of School Commissioners of Mobile County	Robert C. Campbell, III	Sept. 27	257
COUNTY COMMISSION			
Cullman County—County Commission—Expense Allowance	Randall Shedd	Aug. 10	33
COURTS			
St. Clair County—District Courts—Expense Allowance	William J. Trussell	Sept. 13	253
District Courts—Small Claims—Attorneys	Robert R. Armstrong, Jr.	Aug. 29	237
CRENSHAW COUNTY			
Crenshaw County—District Attorneys—Salaries	Jesse O. Bryan	Sept. 10	248
CULLMAN COUNTY			
Cullman County—County Commission—Expense Allowance	Randall Shedd	Aug. 10	33
— D —			
DEEDS			
Probate Judges—Real Property—Deeds	John L. Moore	Aug. 10	227
DISTRICT ATTORNEYS			
County—Not provide insurance for assistant district attorney	Eldon Sharpe	July 17	214

Magistrates—District Attorneys— Arrest Warrants	John D. Whetstone	Aug. 10	Prosecution Services
Crenshaw County—District Attorneys— Salary	Jesse O. Bryan	Sept. 10	248

— E —

EDUCATION

Board of Education—Lease school lands not needed for school purposes	Ollen R. Ratliff	July 2	203
Teachers' salary—Withheld under certain circumstances	Joe R. Carothers, Jr.	July 10	197
Certain information given Ala. Industrial Development Training Institute—Not public record	Wayne Teague	July 11	Education
Conflicts of Interest—Boards of Education	Martin Ray	July 30	222
Education—Taxation—Counties	Don Siegelman	July 30	Secretary of State
Education—County and City Boards— Out-of-district tuition fee.	Wayne Teague	Aug. 17	Education
Education—City of Ft. Payne	W. A. Israel	Aug. 22	234
Education—Merit System—Employees	Wayne Teague	Aug. 29	Education
State Superintendent of Education may employ Confidential Assistant.	Wayne Teague	Aug. 29	Education
Education—Retirement System	James Lemaster	Aug. 29	238
County Boards of Education— Vacancy filled by majority vote.	Billy J. Ricketts	Sept. 10	244
County Board of Education may enforce regulation prohibiting smoking.	Robert C. Campbell, III	Sept. 27	257
Superintendent—Board of School Commissioners of Mobile County.			

Subject	Addressee	Date	File
ELECTIONS			
City may change location of voting place after notice of election.	Emory Folmar	July 10	204
Cleburne County—Elections—Intoxicating Liquors	Horace S. Merrill	July 17	216
Education—Taxation—Counties	Don Siegelman	July 30	Secretary of State
Probate Judges—Municipalities	O. D. Alsobrook	Aug. 6	223
Registrars—Elections—Voter Registration	Jenny C. Knight	Aug. 10	229
Registrars—Elections	Don Siegelman	Aug. 29	Secretary of State
Barbour County—Taxation—Elections	W. Mack Price	Sept. 13	252
EMPLOYEES' RETIREMENT SYSTEM			
Commuter Services, Inc. not eligible to participate in Retirement System.	William C. Walsh	Aug. 29	Retirement
Teachers' Retirement System—Tax Assessor—Officers and Offices	William C. Walsh	Sept. 13	Retirement
EMPLOYMENT, EMPLOYERS, EMPLOYEES			
Library Board employees—Participate in Employees' Retirement System	Daniel Rogers, Jr.	July 11	208
Toxicologist—Appointed—Not Subject to State Merit System	Carlos L. Rabren	July 11	Toxicology
Social Security taxes discussed.	David G. Bronner	July 17	Finance
Public Employees—Tuscaloosa County	Robert H. Johnston	July 17	215
Baldwin County—Purchase uniforms for CETA employees	William B. Cooper	July 25	221
City of Andalusia—Employee Safety Incentive Plan	Chalmers Bryant	Aug. 10	116

Governor—Authority to hire assistants	Ben C. Collier	Aug. 29	Alabama Development Office
Education—Merit System—Employees	Wayne Teague	Aug. 29	Education
State Superintendent of Education may employ Confidential Assistant.	Wayne Teague	Aug. 29	Education
Military Leave—Municipal employees	Guy F. Gunter, III	Sept. 10	241
City of Birmingham—Retirement— Employment, employers, employees	Richard D. Martin	Sept. 13	251
ENERGY			
Bid Law—Municipalities—Energy Crisis	G. William Noble	Aug. 22	125
ESCROW			
State Treasurer—Retainage—Escrow	Annie Laurie Gunter	Sept. 10	Treasurer
ESTATES			
Retirement Systems—Estates	William C. Walsh	July 25	Retirement
EXEMPTIONS			
Baling equipment—Not pollution control device.	Kenneth Earl Cheatwood	July 11	211
Ad Valorem Tax—Exemptions— Classification of Property	Ken Malone	July 11	23
Ad Valorem Tax—Homestead Exemption—Joint owner	Ralph P. Eagerton, Jr.	Aug. 29	Revenue
Chemicals—Exemptions—Sales Tax	Albert McDonald	Aug. 29	236
Auxiliary State Forest lands— Not subject to reappraisal.	John Kennard	Aug. 29	239

Subject	Addressee	Date	File
EXPENSE ALLOWANCE			
Cullman County—County Commission—Expense Allowance	Randall Shedd	Aug. 10	33
Tallapoosa County—District Judge—Expense Allowance	Eldon Sharpe	Sept. 13	214
St. Clair County—District Courts—Expense Allowance	William J. Trussell	Sept. 13	253
Cleburne County—Probate Judge—Expense Allowance	Walter J. Merrill	Sept. 27	212
Sumter County Sheriff—Expense Allowance	Drayton Pruitt, Jr.	Sept. 27	259
EXPENSES			
Municipalities—Expenses	Maurice C. West	Sept. 10	182
— F —			
FEEs			
Education—County and City Boards—Out-of-District Tuition Fee	Wayne Teague	Aug. 17	Education
Sheriff's pistol permit fund—Used to supplement clerk salary	Grady Rose	Aug. 22	232
Board of Registration for Sanitarians—Fee for examination of applicants	Ira L. Myers	Aug. 29	Health
FIREFIGHTERS			
Firefighters Personnel Stds. Ed. Comm.—Contract for training recruit firefighters	Price E. Robinson	Aug. 29	Firefighters

FIRE MARSHAL

Fire Marshal—Mobile Homes— Bonds—Licenses	Albert J. Winfield	Aug. 29	Insurance
--	--------------------	---------	-----------

FLORENCE, CITY OF

Annexation—City of Florence— Town of St. Florian	William B. Duncan	July 17	213
---	-------------------	---------	-----

FORT PAYNE, CITY OF

Education—City of Fort Payne	W. A. Israel	Aug. 22	234
------------------------------	--------------	---------	-----

FUNDS

Social Security taxes discussed.	David G. Bronner	July 17	Finance
Highway Department—Contract— Public Funds	Rex K. Rainer	July 17	Highway
Macon County Commission— Appropriation—Macon County Hospital Association	Fred D. Gray	July 25	220
Sheriff's pistol permit fund— Used to supplement clerk salary	Grady Rose	Aug. 22	232
Municipalities—Funds	Kenneth H. Brandon	Sept. 21	254
Contract for diesel fuel— Does not specify price.	Rex K. Rainer	Sept. 27	Highway

— G —

GADSDEN, CITY OF

City of Gadsden—Retirement— Municipalities	Roger W. Kirby	July 11	209
---	----------------	---------	-----

Subject	Addressee	Date	File
GOVERNOR			
State Health Planning and Development Agency—Continue regulatory function temporarily.	Fob James	July 30	Governor
Governor—Authority to hire assistants	Ben C. Collier	Aug. 29	Alabama Development Office Governor
Governor appoints vacancies in office of Tax Assessor	Fob James	Sept. 10	255
Reorganization—Civil Defense—Military Department	Thomas E. Rains, Sr.	Sept. 21	Governor
Governor—Proclaim civil defense emergency	Fob James	Sept. 21	
GRANTS			
Industrial Development Authority—Site Preparation Grants	Ben C. Collier	July 17	Alabama Development Office

— H —

HEALTH AND HEALTH DEPARTMENT			
Emergency purchases affecting public health, safety, convenience—Not subject to competitive bids.	James W. Warr	July 25	Water Improvement Commission Health
Board of Registration for Sanitarians—Fee for examination of applicants.	Ira L. Myers	Aug. 29	

Licensure and inspection exemption— Ambulance service companies in Marengo and Sumter Counties. Immunization of school children— Definition of "next school year."	Ira L. Myers	Aug. 29	Health
	Ira L. Myers	Sept. 10	Health
HEALTH PLANNING AND DEVELOPMENT AGENCY			
State Health Planning and Development Agency—Continue regulatory function temporarily.	Fob James	July 30	Governor
HIGHWAY DEPARTMENT			
Highway Department—Contract— Public Funds	Rex K. Rainer	July 17	Highway
Contract for diesel fuel— Does not specify price.	Rex K. Rainer	Sept. 27	Highway
HOSPITALS			
Macon County Commission— Appropriation—Macon County Hospital Association.	Fred D. Gray	July 25	220
Competitive Bid Law— Hospitals—Contracts	Oliver E. Young, Jr.	Aug. 10	228
Hospital Boards—Conflicts of Interest Competitive Bid Law—Construction Contracts—Houston County	Homer W. Cornett Charles Whiddon	Sept. 10 July 27	242 105
— I —			
IMMUNIZATION			
Immunization of school children— Definition of "next school year."	Ira L. Myers	Sept. 10	Health

Subject	Address	Date	File
INDUSTRIAL DEVELOPMENT AUTHORITY Eligible grantees for site preparation grants.	Ben C. Collier	July 17	Alabama Development Office
INDUSTRIAL DEVELOPMENT BOARDS City of Monroeville—Industrial Development—Conveyance of Real Estate	B. A. Hornady	Sept. 10	195
INDUSTRIAL DEVELOPMENT TRAINING INSTITUTE Certain information given Ala. Industrial Development Training Institute—Not public record	Wayne Teague	July 11	Education
INSURANCE County—Not provide insurance for assistant district attorney Fire Marshal—Mobile Homes—Bonds—Licenses	Eldon Sharpe	July 17	214
INTOXICATING LIQUORS Clebune County—Elections—Intoxicating Liquors House Bill 79-947—Local Act—Talladega County	Albert J. Winfield	Aug. 29	Insurance
	Horace S. Merrill	July 17	216
	Jasper Fielding	Aug. 29	100
— J —			
JACKSON COUNTY County Boards of Education—Vacancy filled by majority vote	James Lemaster	Aug. 29	238

JEFFERSON COUNTY

Birmingham-Jefferson Civic Center
Authority—Method of electing directors
Birmingham-Jefferson Civic Center
Authority—Method of electing directors

Geo. D.H. McMillan, Jr. Sept. 26 Lieutenant
Governor
Pat Vacca Sept. 26 256
Jabo Waggoner

JUDGES

Tallapoosa County—District Judge—
Expense Allowance

Eldon Sharpe Sept. 13 214

JUDGES OF PROBATE

Probate Judges—Municipalities
Marital status not required to be denoted
in transfer or assignment of a lien
Judges of Probate—Jurors—
Administrative Office of Courts
Cleburne County—Probate Judge—
Expense Allowance

O. D. Alsbrook Aug. 6 223
John L. Moore Aug. 10 227
Leland Enzor Sept. 10 250
Walter J. Merrill Sept. 27 212

JURORS AND JURIES

Judges of Probate—Jurors—
Administrative Office of Courts

Leland Enzor Sept. 10 250

— L —

LAW ENFORCEMENT OFFICERS

Law Enforcement Officers—
Municipalities—Retirement
Public Service Commission—Law
Enforcement Officer—Retirement System

Roger W. Kirby July 11 209
Juanita W. McDaniel Sept. 10 Public Service
Pete Mathews Commission
Jim Folsom, Jr.

Subject	Address	Date	File
LAWRENCE COUNTY			
Sheriff's pistol permit fund— Used to supplement clerk salary	Grady Rose	Aug. 22	232
LEASES			
Board of Education—Lease school lands not needed for school purposes	Ollen R. Ratliff	July 2	203
LEGISLATURE			
Secretary of Senate and Clerk of House— cost of living pay increase	G. C. Dean, Jr.	Aug. 29	Comptroller
LIBRARIES			
Library Board Employees—Participate in Employees' Retirement System	Daniel Rogers	July 11	208
Public Library Service—Authority to establish rules and regulations	Anthony W. Miele	Sept. 13	Public Library Service
LICENSE COMMISSIONER			
Licenses—Morgan County License Commissioner	Cleon Yates	Aug. 10	230
LICENSES			
Licenses—Morgan County— License Commissioner	Cleon Yates	Aug. 10	230
Municipalities—Occupational License Tax Fire Marshal—Mobile Homes— Bonds—Licenses	Benny Joe Brown Albert J. Winfield	Aug. 10 Aug. 29	225 Insurance
LIEUTENANT GOVERNOR			
Birmingham-Jefferson Civic Center Authority—Method of electing directors	Geo. D.H. McMillan, Jr.	Sept. 26	Lieutenant Governor

LOCAL LEGISLATION

House Bill 79-947—Local Act—
Talladega County

Jasper Fielding Aug. 29 100

— M —**MACON COUNTY**

Macon County Commission—
Appropriation—Macon County
Hospital Association

Fred D. Gray July 25 220

MADISON COUNTY

Board of Registrars—
Voter Disqualification

Clarence Nance Sept. 27 177

MAGISTRATES

Magistrates—District Attorneys—
Arrest Warrants

John D. Whetstone Aug. 10 Prosecution
Services

MARENGO COUNTY

Licensure and inspection exemption—
ambulance service companies—
Marengo and Sumter Counties

Ira L. Myers Aug. 29 Health

MAYORS

City Council—Set speed limits
to be observed by police officers

Julian B. Brackin Aug. 10 224

MEDICAL CARE

Medical care—Death row inmates

R. G. Britton Sept. 13 Corrections

MEDICAL SERVICES ADMINISTRATION

Medical Services Administration—
Contract—Dept. of Mental Health

W. H. Kerns Sept. 10 Medical
Services Adm.

Subject	Address	Date	File
MENTAL HEALTH			
Confidential Relations—Licensed Psychologist—Clients	Patrick R. Chitwood	July 6	217
Medical Services Administration—Contract—Dept. of Mental Health	W. H. Kerns	Sept. 10	Medical Services Adm.
MERIT SYSTEM			
Toxicologist—Appointed—Not subject to State Merit System	Carlos L. Rabren	July 11	Toxicology
Education—Merit System—Employees	Wayne Teague	Aug. 29	Education
MILITARY DEPARTMENT			
Governor—Reorganization—Civil Defense—Military Department	Thomas E. Rains, Sr.	Sept. 21	255
MILITARY LEAVE			
Military Leave—Municipal employees	Guy F. Gunter, III	Sept. 10	241
MOBILE COUNTY			
Mobile County Racing Commission—Workmen's Compensation	Maury Friedlander	Aug. 22	4
Superintendent—Board of School Commissioners of Mobile County	Robert C. Campbell, Jr.	Sept. 27	257
MOBILE HOMES			
Fire Marshal—Mobile Homes—Bonds—Licenses	Albert J. Winfield	Aug. 29	Insurance
MOBILE RACING COMMISSION			
Mobile County Racing Commission—Workmen's Compensation	Maury Friedlander	Aug. 22	4

MONROEVILLE, CITY OF			
City of Monroeville—Industrial Development—Conveyance of Real Estate	B. A. Hornady	Sept. 10	195
MONTGOMERY, CITY OF			
City—Change location of voting place after notice of election	Emory Folmar	July 10	204
MORGAN COUNTY			
Licenses—Morgan County—License Commissioner	Cleon Yates	Aug. 10	230
MUNICIPAL COURTS			
Municipal Court—Collect \$10 for chemical test for intoxication	Jerry Shoemaker	July 11	Public Safety
MUNICIPALITIES			
City—Change location of voting place after notice of election	Emory Folmar	July 10	204
Town of Sardis City—Water Works Board	City Council	July 11	206
City of Gadsden—Retirement	Roger W. Kirby	July 11	209
Municipal Court—Collect \$10 for chemical test for intoxication	Jerry Shoemaker	July 11	Public Safety
Annexation—City of Florence—Town of St. Florian	William B. Duncan	July 17	213
Municipalities may not do work on private roads.	E. T. Sims, Jr.	July 25	218
Probate Judges—Municipalities	O. D. Alsobrook	Aug. 6	223
Municipal water board purchases—Subject to competitive bid law	Bob Hall	July 25	163
City Council—Set speed limits to be observed by police officers	Julian B. Brackin	Aug. 10	224

Subject	Address	Date	File
City of Andalusia—Employee Safety Incentive Plan	Chalmers Bryant	Aug. 10	116
Municipalities—Occupational License Tax	Benny Joe Brown	Aug. 10	225
Bid Law—Municipalities—Energy Crisis	G. William Noble	Aug. 22	125
Military Leave—Municipal employees	Guy F. Gunter, III	Sept. 10	241
Municipalities—Streets—Subdivisions	Chalmers Bryant	Sept. 10	116
Municipalities—Actual Expenses	Maurice C. West	Sept. 10	182
Municipalities—Volunteer Fire Departments	J. Frank Lanier	Sept. 10	243
Sylacauga, City of—Private Property	William B. Parrett	Sept. 10	246
Municipalities—Notices— Conflicts of Interest	John C. Jay, Jr.	Sept. 10	247
Municipalities—Funds—Property	Kenneth H. Brandon	Sept. 21	254
— N —			
NOTICES			
Municipalities—Notices— Conflicts of Interest	John C. Jay, Jr.	Sept. 10	247
— O —			
OFFICERS AND OFFICES			
Banks and Banking—Counties— Officers and Offices	Walter J. Merrill	July 11	212
Teachers' Retirement System— Tax Assessor—Officers and Offices (Withdrawn and revoked 10/3/79)	William C. Walsh	Sept. 13	Retirement

OIL AND GAS BOARD

Oil and Gas Board—Certificates
of deposit in lieu of bond.

Thomas J. Joiner Sept. 10 Oil & Gas Board

OPELIKA, CITY OF

Military Leave—Municipal employees

Guy F. Gunter, III Sept. 10 241

**OPINIONS OVERRULED, MODIFIED
OR WITHDRAWN**

Opinion to William C. Walsh
dated 9/13/79 regarding benefits of
retired teacher serving as Tax Assessor

William C. Walsh Oct. 3 Retirement

— P —**PENSIONS AND SECURITY**

Department of Pensions and Security—
Set eligibility standards
Pensions and Security—Contract—
Competitive Bid Law

Gary Cooper Sept. 27 Pensions &
Security
Gary Cooper Sept. 27 Pensions &
Security

PERRY COUNTY

Perry County—Retirement—Tax Collector

Floyd R. Cook Sept. 10 249

PERSONNEL

Tax Assessor's wife cannot be
hired to work in his office.
Counties—Sheriffs—Personnel

James A. Carter Sept. 10 245
Melvin Stephens Sept. 27 67

PEST CONTROL

Two pest control firms in
same location may be operated
by one certified operator.

McMillan Lane Aug. 29 Agriculture
& Industries

Subject	Address	Date	File
PISTOL PERMIT FUND			
Wilcox County—Sheriffs— Pistol Permit Fund	F. R. Albritton, Jr.	July 11	207
POLICE			
City Council—Set speed limits to be observed by police officers.	Julian B. Brackin	Aug. 10	224
Search and Seizure—City Police Officers	Chalmers Bryant	Sept. 10	116
Sheriffs—Public Records— Federal Privacy Act	F. R. LaPorte	Sept. 27	258
PRISONS AND PRISONERS			
Discharged inmate—Complete outfitting of clothing	R. G. Britton	Sept. 13	Corrections
Medical care—Death row inmates	R. G. Britton	Sept. 13	Corrections
Private work by student inmates	R. G. Britton	Sept. 27	Corrections
PRIVACY ACT			
Sheriffs—Public Records—Microfilmed	F. R. LaPorte	Sept. 27	258
PRIVATE PROPERTY			
Municipalities may not do work on private roads.	E. T. Sims, Jr.	July 25	218
City of Sylacauga—Private Property	William B. Parrett	Sept. 10	246
PRIVATE WORK			
Private work by student inmates.	R. G. Britton	Sept. 27	Corrections
PROBATE JUDGES			
See Judges of Probate			

PROPERTY

Ad Valorem Tax—Exemptions—
Classification of Property
Marital status not required to be denoted
in transfer or assignment of a lien.

Ken Malone July 11 23

John L. Moore Aug. 10 227

PSYCHOLOGISTS

Confidential Relations—Clients—
Licensed Psychologist

Patrick R. Chitwood July 6 217

PUBLIC LIBRARY SERVICE

Public Library Service—Authority
to establish rules and regulations.

Anthony W. Miele Sept. 13 Public Library
Service

PUBLIC RECORDS

Certain information given Ala.
Industrial Development Training
Institute—Not a public record.
Sheriffs—Public Records—Microfilmed

Wayne Teague July 11 Education

F. R. LaPorte Sept. 27 258

PUBLIC SAFETY

Municipal court—Collect \$10 for
chemical test for intoxication

Jerry Shoemaker July 11 Public Safety

PUBLIC SERVICE COMMISSION

Public Service Commission—Law
Enforcement Officer—Retirement

Juanita W. McDaniel Sept. 10 Public Service
Pete Mathews Commission
Jim Folsom, Jr.

PUBLIC WORKS

Building Commission—Promulgate
code of minimum building standards

W. G. Stevenson July 17 Building
Commission

Subject	Address	Date	File
	— R —		
REAL PROPERTY			
Marital status not required to be denoted in transfer or assignment of a lien.	John L. Moore	Aug. 10	227
City of Monroeville—Industrial Development—Conveyance of Real Estate	B. A. Hornady	Sept. 10	195
REAPPRAISAL PROGRAM			
Auxiliary State Forest lands—Not subject to reappraisal.	John Kennard	Aug. 29	239
REGISTRARS			
Registrars—Elections—Voter Registration	Jenny C. Knight	Aug. 10	229
Registrars—Elections	Don Siegelman	Aug. 29	Secretary of State
Board of Registrars—Voter Disqualification	Clarence Nance	Sept. 27	177
RETAINAGE			
State Treasurer—Escrow—Retainage	Annie Laurie Gunter	Sept. 10	Treasurer
RETIREMENT			
Perry County—Tax Collector—Retirement	Floyd R. Cook	Sept. 10	249
City of Birmingham—Retirement—Employment, employers, employees	Richard D. Martin	Sept. 13	251
RETIREMENT SYSTEMS			
City of Gadsden—Retirement	Roger W. Kirby	July 11	209
Library Board Employees—Participate in Employees' Retirement System	Daniel Rogers	July 11	208

Pro rata distribution to estates of deceased members discussed.	William C. Walsh	July 25	Retirement Systems
Education—Retirement System	Wayne Teague	Aug. 29	Education
Commuter Services, Inc.—Not eligible to participate in	William C. Walsh	Aug. 29	Retirement
Employees' Retirement System			
Public Service Commission—Law	Juanita W. McDaniel	Sept. 10	Public Service
Enforcement Officer—Retirement	Pete Mathews		Commission
	Jim Folsom, Jr.		

REVENUE DEPARTMENT

Ad Valorem Tax—Homestead
Exemption—Joint owner

Aug. 29 Revenue

ROADS AND BRIDGES

Municipalities may not do work on private roads.

July 25 218

— S —

SAINT CLAIR COUNTY

County Officials—Salaries
St. Clair County—District
Courts—Expense Allowance

Aug. 29 240
Sept. 13 253

SALARIES

Teachers' salary—Withheld under certain circumstances
St. Clair County Officials—Salary
Crenshaw County—District
Attorneys—Salaries

July 10 197
Aug. 29 240
Sept. 10 248

Subject	Addressee	Date	File
SALES TAX			
Baling equipment—Not pollution control device	Kenneth Earl Cheatwood	July 11	211
Taxation—Chemicals—Sales Tax—Exemptions	Albert McDonald	Aug. 29	236
SANTARIANS, BOARD OF REGISTRATION			
Board of Registration of Sanitarians—Fee for examination of applicants	Ira L. Myers	Aug. 29	Health
SAVINGS AND LOAN ASSOCIATIONS			
Banking—Savings and Loan Associations—Merger	Kenneth R. McCartha	Sept. 27	Banking
SEARCH AND SEIZURE			
City Police Officers—Search and Seizure	Chalmers Bryant	Sept. 10	116
SECRETARY OF STATE			
Board of Registrars—Elections	Don Siegelman	Aug. 29	Secretary of State
SHERIFFS			
Pistol Permit Fund—Sheriffs—Wilcox County	F. R. Albritton, Jr.	July 11	207
Baldwin County—Purchase uniforms for CETA employees	William B. Cooper	July 25	221
Sheriff's pistol permit fund—Used to supplement clerk salary	Grady Rose	Aug. 22	232
Counties—Sheriffs—Personnel	Melvin Stephens	Sept. 27	67
Sumter County Sheriff—Expense Allowance	Drayton Pruitt, Jr.	Sept. 27	259

SMALL CLAIMS

District Courts—Small Claims—Attorneys

Robert R. Armstrong, Jr.

Aug. 29

237

SOCIAL SECURITY

Payment of Social Security Tax

Dept. of Pensions and Security—

Authorized to set eligibility standards.

David G. Bronner

Gary Cooper

July 17

Sept. 27

Finance
Pensions &
Security**STATE TREASURER**

Treasurer—Construction Bond—

Certificates of Deposit

Treasurer—Retainage—Escrow

Annie Laurie Gunter

Sept. 13

Treasurer

Annie Laurie Gunter

Sept. 10

Treasurer

STREETS

Paving priorities discussed.

Chalmers Bryant

Sept. 10

116

SUBDIVISIONS

Paving priorities discussed.

Chalmers Bryant

Sept. 10

116

SUMTER COUNTY

Licensure and inspection exemption—

Governmentally-owned ambulance

Counties—Sheriffs—Personnel

Sumter County Sheriff—

Expense Allowance

Ira L. Myers

Aug. 29

Health

Melvin Stephens

Sept. 27

67

Drayton Pruitt, Jr.

Sept. 27

259

**SURFACE MINING RECLAMATION
COMMISSION**

Surface Mining Reclamation

Commission—Reclamation Bond

Thomas G. Walker, Jr.

July 17

SMRC

Subject	Addressee	Date	File
	-- T --		
TALLADEGA COUNTY House Bill 79-947—Local Act—Talladega County	Jasper Fielding	Aug. 29	100
TALLAPOOSA COUNTY District Judge—Expense Allowance	Eldon Sharpe	Sept. 13	214
TAX ASSESSORS Governor appoints vacancies in office of Tax Assessor Tax Assessor's wife cannot be hired to work in his office. Teachers' Retirement System— Tax Assessor—Officers and Offices	Fob James James A. Carter William C. Walsh	Sept. 10 Sept. 10 Sept. 13	Governor 245 Retirement
TAXATION Education—Taxation—Counties A.B.C. Board—Taxation—Act 79-182 Chemicals—Sales Tax—Exemptions Auxiliary State Forest lands— Not subject to reappraisal. Barbour County—Taxation—Elections	Don Siegelman Joe B. Broadwater Albert McDonald John Kennard W. Mack Price	July 30 July 17 Aug. 29 Aug. 29 Sept. 13	Secretary of State A.B.C. Board 236 239 252
TAX COLLECTOR Perry County—Tax Collector—Retirement	Floyd R. Cook	Sept. 10	249

TEACHERS

Teachers' salary—Withheld
under certain circumstances

Joe R. Carothers, Jr. July 10 197

TEACHERS' RETIREMENT SYSTEM

Officers and Offices—Tax
Assessor—Teachers' Retirement
(Withdrawn and revoked 10/3/79)

William C. Walsh Sept. 13 Retirement

TIMBER

Conservation—Sale of storm
damaged timber

Richard A. Forster Sept. 21 Conservation

TOXICOLOGY, DEPARTMENT OF

Toxicologist—Appointed—Not
subject to State Merit System

Carlos L. Rabren July 11 Toxicology

TUSCALOOSA COUNTY

Tuscaloosa County—Public Employees

Robert H. Johnston July 17 215

— U —

UTILITIES BOARDS

Utilities Board—Contract
with son of Mayor

Gilbert R. Craft July 2 202

Town of Sardis City—Water Works Board
Municipal water board purchases—
Subject to competitive bid law

City Council July 11 206
Bob Hall July 25 163

— V —

VACANCIES

Governor appoints vacancies in
office of Tax Assessor.

Fob James Sept. 10 Governor

Subject	Addressee	Date	File
VOLUNTEERS			
Municipalities—Volunteer Fire Department	J. Frank Lanier	Sept. 10	243
VOTER REGISTRATION			
Registrars—Elections—Voter Registration	Jenny C. Knight	Aug. 10	229
Board of Registrars—Voter Disqualification	Clarence Nance	Sept. 27	177
VOTING			
City—Change location of voting place after notice of election	Emory Folmar	July 10	204
Registrars—Elections—Voter Registration	Jenny C. Knight	Aug. 10	229
Board of Registrars—Voter Disqualification	Clarence Nance	Sept. 27	177
	— W —		
WARRANTS			
Magistrates—District Attorneys—Arrest Warrants	John D. Whetstone	Aug. 10	Prosecution Services
WATER IMPROVEMENT COMMISSION			
Water Improvement Commission—Administer NPDES Permit Program	James W. Warr	July 16	WIC
Emergency purchases affecting public health, safety, convenience—Not subject to competitive bids.	James W. Warr	July 25	WIC
WILCOX COUNTY			
Pistol Permit Fund—Sheriffs—Wilcox County	F. R. Albritton, Jr.	July 11	207
WORKMEN'S COMPENSATION			
Mobile County Racing Commission—Workmen's Compensation	Maury Friedlander	Aug. 22	4
City of Bessemer—Workmen's Compensation Act	Edward P. Porter	Aug. 22	233